IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 22293 of 2004

Between:

M. Akkulappa, S/o. M. Chinnayyappa,
Hindu, R/o. Gownipalli Post, O.D.C., Mandal, Anantapur District.

..... PETITIONER

AND

1 The Depot Manager, APSRTC, Kadiri Depot, Kadiri,
Anantapur District.
2 The Divisional Manager, APSRTC, Hindupur Division, Hindupur,
Anantapur District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus or any other appropriate Writ declaring the Proceedings No.02/95(234)01 KDR dated 11-1-2002 of the Ist respondent and Proceedings No.PA/19(28)/2002-DVM-H, dated 5-4-2002 of the 2nd respondent as illegal, arbitrary in violation of principles of natural justice and in violation of Articles 14 and 21of the Constitution of India and consequently direct the respondents to add one annual increment to the pay of the petitioner.

Counsel for the Petitioner: S.SURENDRA KUMAR

Counsel for the Respondent Nos.1 and 2: MR.P.VINAYAKA SWAMY

The Court at the admission stage made the following Order:

THE HON'BLE SRI JUSTICE K.C.BHANU

WRIT PETITION NO.22293 OF 2004

ORDER:

The petitioner has been working as a Conductor in the respondent-Corporation. A charge memo dated 11.01.2002 was issued to him alleging certain cash and ticket irregularities. The petitioner submitted his explanation. The disciplinary authority on considering the explanation offered by the petitioner, imposed the punishment of withholding of annual increment for a period of one year, which shall have the effect of postponing the future increments. Aggrieved by the same, the petitioner carried the matter in appeal to the second respondent, who by order dated 05.04.2002 rejected the appeal confirming the orders passed by the first respondent. The petitioner, therefore, approached this Court through this writ petition to declare the proceedings dated 11.01.2002 of the first respondent and proceedings dated 05.04.2002 of the second respondent as illegal and arbitrary.

Learned counsel for the petitioner contended that major penalty cannot be imposed without conducting any enquiry and, therefore, he prays to modify the penalty imposed on the petitioner into one of minor punishment since the incident took place in the year 2001.

Learned Standing Counsel appearing for the respondents opposed the same and submitted that the punishment was imposed basing on the severity of the charges levelled against the petitioner and, hence, there are no grounds to interfere with the findings given by the authorities, and prays to dismiss the writ petition.

There cannot be any dispute that imposing the penalty of withholding of one annual increment with cumulative effect, is a major penalty, which cannot

be imposed without conducting regular departmental enquiry Admittedly, in this case, no such departmental enquiry was conducted. Though the matter can be remitted to the first respondent, but under the peculiar facts and circumstances of the case, as the incident had taken place in the year 2001, it is not desirable to remit the matter again. Perhaps that is the reason why the learned counsel appearing for the petitioner has requested this Court to impose minor penalty instead of major penalty. Considering the trivial nature of charges levelled against the petitioner, this Court is inclined to modify the major punishment to one that of minor punishment.

Having regard to the facts and circumstances of the case, the punishment of major penalty of withholding of one increment with cumulative effect, imposed by the first respondent, as confirmed in appeal can be reduced with slight modification. Therefore, the order of punishment is modified as withholding of one increment without cumulative effect.

The writ petition is accordingly disposed of. No costs.

03.12.2004

usd

To

1 The Depot Manager, APSRTC, Kadiri Depot, Kadiri,
Anantapur District.
2 The Divisional Manager, APSRTC, Hindupur Division, Hindupur,
Anantapur District.

3 2CD copies.